

# E K M A R K & E K M A R

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**Via U.S. Mail, E-mail (mailmaster@azcc.gov), and Hand-Delivery**

Teena Wolfe  
Administrative Law Judge  
Hearings Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

Arizona Corporation Commission

**DOCKETED**

JUN 22 2010

DOCKETED BY

*mm*

**Re: Docket Nos. W-01303A-09-0343 and SW-01303A-09-0343**

Your Honor:

This firm represents Sun City Grand Community Association (the "Association"). I write on behalf of the Association regarding the rate consolidation proposal submitted by Arizona American Water Company ("AAWC") and the above-referenced docket numbers, requesting that either the district of which the Association is a part (the Agua Fria Water District) be permanently removed from the rate consolidation proposal, or that the Association be granted a reasonable extension of time to file a motion to intervene in this matter, for the reasons set forth below.

Earlier this year, residents of the Association received a notice of water rate consolidation from AAWC addressed to "All Customers of Arizona American Water" (See attached Ex. A). The notice also contained a pre-determined schedule of public hearings, comments, and deadlines for filing motions to intervene with respect to opposition for the consolidation of water rates contained in such notice. After receiving the notice, many of the Association's residents and members of its Intergovernmental Advisory Committee (a committee appointed by the Board of Directors and charged to follow issues such as this) telephoned the AAWC. However, all such residents and committee members were misinformed by AAWC that the Association was not a part of the consolidation referenced in the notice.

In reliance upon the misrepresentations made by AAWC, the Association did not further research the issue or exercise its rights. As a result, the Association missed the requisite deadlines for the Phase Two public hearing and public comments. Further, the Association did not timely file a motion to intervene due to its reliance upon AAWC's misrepresentations, did not attend the procedural conference for parties wishing to intervene, and was not able to file testimony at a rate case pursuant to such a motion. In effect, the Association was denied the procedural due

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process to which it was entitled because it acted in reliance upon misstatements of fact made by AAWC.

If the Association had been provided with correct information by AAWC, it would have acted immediately due to the massive effect water rates have on residents of the Association, as well as the Association vis-à-vis its common areas. Likewise, given that the Association is comprised of 9,500 lots, plus numerous acres of common areas, the cumulative effects of a rate consolidation are even more pronounced.

Notwithstanding this fact, there are multiple objections that the Association would have made concerning issues of fairness had it been provided with correct information by AAWC and exercised its rights. First, the Association's rates are lower because its residents have already paid the cost to bring water services to the Association. Although the Association has not had the time to thoroughly research this issue, due to just finding out about AAWC's misinformation, the Association believes that this is not necessarily true of some of the other water districts, such as Anthem.

Additionally, the minimum lot size in Paradise Valley is much larger than in areas such as Sun City Grand, and, for this and other reasons, its residents use higher volumes of water than other districts. However, it is the policy of the water resource department to implement higher water rates in areas where water usage is high in order to encourage conservation. Likewise, water rate increases are being proposed in the Tubac district to address the capital costs required to build an arsenic processing plant for water in the district. Due to the time limits inherent to this matter for the aforementioned reasons, we have not had an opportunity to research whether these higher rates will be transferred to all of the districts pursuant to a water rate consolidation. Nevertheless, one can imagine the effect on the Association if the rate increases in the Tubac district are passed on pursuant to a rate consolidation.

In other words, district rate consolidation will cause the Association and its residents to pay a substantially higher rate for water in order to subsidize residents in other areas where: (i) the district water plant was financed, (ii) the district has arsenic problems and requires the costly addition of an arsenic plant, or (iii) residents in the district do not conserve water and pay resultantly higher rates.

To that end, due to its reliance on misstatements of fact made by AAWC, the Association requests that the district of which the Association is a part (*i.e.*, the Agua Fria Water District) be permanently removed from the rate consolidation proposal. If permanent removal is not possible, the Association requests that it be provided with a reasonable extension of the applicable deadline in order to exercise its right to intervene. The Association requests that any extension provide it with enough time to make a determination with regard to intervening in the matter, and if the Association so determines, timely file the appropriate paperwork.

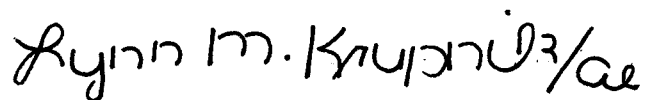
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Thank you for your consideration of this matter. Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Lynn M. Krupnik" followed by a stylized "ae" monogram.

Lynn M. Krupnik

LMK/ae

Enclosure

cc: Arizona American Water Company  
Association



ARIZONA  
AMERICAN WATER

2355 W. Pinnacle Peak Rd., Suite 300  
Phoenix, AZ 85027

WE CARE ABOUT WATER.  
IT'S WHAT WE DO.

THIS IS AN IMPORTANT NOTICE  
REGARDING YOUR RATES.



**PUBLIC NOTICE TO ALL CUSTOMERS OF ARIZONA-AMERICAN WATER  
COMPANY OF A HEARING ON RATE CONSOLIDATION PROPOSALS  
FOR POSSIBLE RATE CHANGES FOR UTILITY SERVICE  
IN ALL OF ITS ARIZONA DISTRICTS.  
DOCKET NOS. W-01303A-09-0343 AND SW-01303A-09-0343.**

**Summary**

On July 2, 2009, Arizona-American Water Company ("Company") filed an application with the Arizona Corporation Commission ("Commission") for permanent revenue increases for its following districts: Anthem Water District, Sun City Water District, Anthem/Agua Fria Wastewater District, Sun City Wastewater District, and Sun City West Wastewater District (the "Pending Rate Case"). In Decision No. 71410, dated December 8, 2009, the Commission approved a rate increase for the Company's Agua Fria Water District, Havasu Water District, Mohave Water District, Paradise Valley Water District, Tubac Water District, Sun City West Water District, and Mohave Wastewater District. In Decision No. 71410, **the Commission ordered the Commission's Utilities Division ("Staff") to propose at least one rate consolidation proposal in the Company's Pending Rate Case.** Pursuant to Decision No. 71410 and the schedule in the Pending Rate Case, Staff will file at least one rate consolidation proposal on or **before March 29, 2010. If approved by the Commission, this proposal may impact the rates of every Arizona-American water and wastewater customer, resulting in either an increase or a decrease.** Other parties to this case, including the Residential Utility Consumer Office, will also have an opportunity to analyze the application and make recommendations to the Commission. The Commission will determine the appropriate relief to be granted based on the evidence presented by the parties. The Commission is not bound by the proposals made by Commission Staff, Arizona-American, or any intervenors; therefore the final rates approved by the Commission may be higher or lower than the rates requested by Arizona-American in the Pending Rate Case and may or may not include a form of rate consolidation.

### **Rate Consolidation**

Currently, the Company's rates are unique for each of its Arizona Districts and the existing rates reflect the differing cost to serve each geographic area. Alternatively, rate consolidation is the process of combining two or more districts for the purpose of combining the differing rates by some means into a single rate for comparable customers (i.e., residential customers). Therefore, instead of paying a different rate according to a specific District, all comparable customers in consolidated Districts would pay the same rate for the same water usage. Presently, Arizona-American's existing District-specific residential rates for typical use water customers result in average bills ranging from a low of \$16.73 per month in Sun City Water District to a high of \$58.59 per month in Tubac Water District.

### **How You Can View or Obtain a Copy of the Rate Consolidation Proposal**

Copies of the rate consolidation proposal filed by Commission Staff will be available after March 29, 2010, from Arizona-American, 2355 W. Pinnacle Peak Road, Suite 300, Phoenix, AZ 85027; at the Commission's Docket Control Center, 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours; and on the internet via the Commission's website ([www.azcc.gov](http://www.azcc.gov)) using the e-docket function.

### **Commission Public Hearing Information - Phase One**

On September 24, 2009, the Commission scheduled Phase One of the hearing on this matter beginning April 19, 2010, at 10:00 a.m., at the Commission's offices, Hearing Room #1, 1200 West Washington Street, Phoenix, Arizona. During Phase One of the hearing, issues related to evidence presented by the Company regarding the revenue requirements for Anthem Water District, Sun City Water District, Anthem/Agua Fria Wastewater District, Sun City Wastewater District, and Sun City West Wastewater Districts will be addressed. During Phase One of the hearing, the issues of rate consolidation and rate design will not be addressed.

### **Commission Public Hearing Information - Phase Two**

The Commission will hold Phase Two of the hearing on this matter beginning **May 18, 2010**, at 10:00 a.m., at the Commission's offices, 1200 West Washington, Hearing Room #1, Phoenix, Arizona. **During Phase Two of the hearing, the issues of rate consolidation and rate design for all of the Company's Districts will be addressed.**

### **Public comments on Rate Design and Rate Consolidation will be taken on the first day of Phase Two of the hearing.**

Other public comment times may be established by the Commission and posted on the Commission's website. Written public comments may be submitted by mailing a letter referencing docket Nos. W-01303A-09-0343 and SW-01303A-09-0343 to Arizona Corporation Commission, Consumer Services Section, 200 West Washington, Phoenix, AZ 85007, or by e-mail to [mailmaster@azcc.gov](mailto:mailmaster@azcc.gov). For a form to use and instructions on how to e-mail comments to the Commission, go to <http://www.azcc.gov/Divisions/Utilities/forms/PublicCommentForm.pdf>. If you require assistance, you may contact the Consumer Services Section at 602-542-4251 or 1-800-222-7000.

### **About Intervention**

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Any person or entity entitled by law to intervene and having a

direct and substantial interest in the matter will be permitted to intervene. If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission no later than **April 15, 2010** and send a copy of the motion to intervene to Arizona-American or its counsel and to all parties of record. Your motion to intervene must contain the following:

1. Your name, address, and telephone number and the name, address and telephone number of any person upon whom service of documents is to be made if not yourself;
2. A short statement of your interest in the proceeding (e.g., a customer of Arizona-American, a shareholder of Arizona-American, etc.); and
3. A statement certifying that you have mailed a copy of the motion to intervene to Arizona-American or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before **April 15, 2010**.

**A pre-hearing conference will be held on April 16, 2010, commencing at 1:30 p.m., at the Commission's Phoenix offices, Hearing Room #1, for the purpose of scheduling witnesses and discussing process for both Phase One and Phase Two of the hearing. All parties, including those who have requested intervention by the deadline of April 15, 2010, for the purpose of addressing rate design and rate consolidation issues, are required to attend the April 16, 2010, procedural conference.**

As part of the Pending Rate Case, **Intervenors will have an opportunity to file both direct testimony and responsive testimony on rate design/rate consolidation, due May 3, 2010. This prefiled testimony must be responsive to the rate design and rate consolidation testimony filed by Staff and the Company, and may also raise new issues related to rate consolidation.**

If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments for the record of the case.

### **ADA/Equal Access Information**

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting the ADA Coordinator, Shaylin Bernal, at [sabernal@azcc.gov](mailto:sabernal@azcc.gov), voice phone number 602-542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.